

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JAVIER SEVERINO,

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: Aug 25, 2008

Petitioner,

-against-

WILLIAM PHILLIPS,

05 Civ. 475 (DAB)
ADOPTION OF REPORT
AND RECOMMENDATION

Respondent.

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DEBORAH A. BATTS, United States District Judge.

This matter is before the Court upon the May 19, 2008 Report and Recommendation (hereinafter, the "Report") of United States Magistrate Judge Henry B. Pitman. Pursuant to 28 U.S.C. § 636(b) (1) (C), "[w]ithin ten days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations." 28 U.S.C. § 636(b) (1) (C); see also Fed. R. Civ. P. Rule 72(b) (providing that "[w]ithin 10 days after being served with a copy of the recommended disposition, a party may serve and file specific, written objections to the proposed findings and recommendations"). Although Petitioner was advised that "FAILURE TO OBJECT WITHIN (10) DAYS WILL RESULT IN A WAIVER OF OBJECTIONS AND WILL PRECLUDE APPELLATE REVIEW," by Judge Pitman, to date Petitioner filed no objections. (Report at 34.)

Having reviewed the Report, and finding no clear error on the face of the record, see 28 U.S.C. § 636(b) (1) (B), it is hereby

ORDERED AND ADJUDGED as follows:

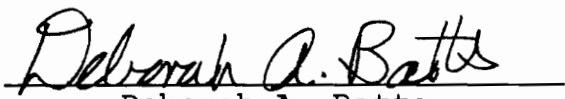
1. The Report and Recommendation of United States Magistrate Judge Henry B. Pitman, dated May 19, 2008, be and the same hereby is, APPROVED, ADOPTED, and RATIFIED by the Court in its entirety; and

2. The instant Petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254, is hereby DENIED. As Petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue. See 28 U.S.C. § 2253; Lozada v. United States, 107 F.3d 1011 (2d Cir. 1997). The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith. See Coppedge v. United States, 369 U.S. 438 (1962).

3. The Clerk of Court is directed to close the docket in this case.

SO ORDERED.

Dated: New York, New York
August 25, 2008



Deborah A. Batts
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ALFIO DARIO PEREZ,

Petitioner,

-against-

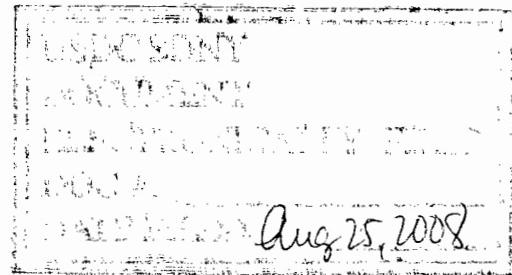
MARY ANN GANTNER, District Director,
Immigration Services,

Respondent.

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DEBORAH A. BATTS, United States District Judge.

On June 26, 2008, United States Magistrate Judge Henry B. Pitman issued a Report and Recommendation ("Report"), recommending that the Court grant Defendant's Motion for Summary Judgment in all respects, and that the above-captioned petition be dismissed. (Report at 3).

Pursuant to 28 U.S.C. § 636(b)(1)(C), "[w]ithin ten days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations." 28 U.S.C. § 636(b)(1)(C); see also F.R.C.P. Rule 72(b) (stating that "[w]ithin 10 days after being served with a copy of the recommended disposition, a party may serve and file specific, written objections to the proposed findings and recommendations"). Section 636(b)(1)(C) also requires a Court to make a "de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." However, where no timely objection



has been made, "a district court need only satisfy itself there is no clear error on the face of the record." Nelson v. Smith, 618 F.Supp. 1186, 1189 (S.D.N.Y. 1985). After conducting the appropriate level of review, the Court may then accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate. 28 U.S.C. § 636(b)(1)(C); see also Local Civil Rule 72.1(d). Although the Report advised the Parties in this action of these rules, to date, no objections have been filed. (Report at 19-20.)

Accordingly, having reviewed the Report and Recommendation and finding no clear error on the face of the record, it is hereby ORDERED AND ADJUDGED as follows:

- (1) The Report & Recommendation of Judge Pitman, dated June 26, 2008, is hereby APPROVED, ADOPTED, and RATIFIED by the Court in its entirety; and,
- (2) Defendant's Motion for Summary Judgment is GRANTED, and the petition is dismissed with prejudice.

The Clerk of the Court is directed to close the docket in the above-captioned case.

SO ORDERED:

DATED: New York, New York
August 25, 2008

Deborah A. Batts
Deborah A. Batts
United States District Judge